

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN

ANTHONY MOREHEAD,

Plaintiff,

v.

Case No. 20-cv-1190-bhl

ANGELA THOMPSON, et al.,

Defendants.

ORDER

On June 7, 2022, the Court granted Defendants' motions for summary judgment and dismissed this case. Dkt. Nos. 70-71. The Court deemed Defendants' proposed findings of fact true because Plaintiff Anthony Morehead did not respond to them by May 27, 2022 even after being given three additional months past the original February 9, 2022 due date for his response. Dkt. Nos. 61, 69, & 70. The Court concluded that the undisputed facts showed that Defendants responded appropriately to Morehead's medical condition and were not deliberately indifferent towards it. Dkt. No. 70. The Court then relinquished jurisdiction over his state law negligence claim. *Id.* The Court also found that Morehead's failure to respond to Defendants' motions was sufficient cause for the Court to grant the motions as a sanction for noncompliance with the local rules. *Id.*

On June 16, 2022, Morehead filed a motion for reconsideration. Dkt. No. 77. Morehead explains that the prison library was closed between May 2, 2022 and May 13, 2022 for security reasons. *Id.*, ¶4. At that time, prison staff allegedly confiscated Morehead's flash drive that had discovery on it that he needed to respond to the motions for summary judgment. *Id.* The flash

drive was not returned until May 23, 2022. *Id.* Morehead then allegedly attempted to file a third motion for extension of time on May 23, 2022, requesting 30 additional days to respond, but he was on “cell confinement” and had to rely on prison guards to deliver his out-going mail. *Id.*, ¶¶4-8. Morehead states, “somehow it did not get mailed out and or delivered.” *Id.*, ¶8. Morehead explains that *this* pending motion for reconsideration “is a replica of the original sent.” *Id.* He also submitted an affidavit, *see* Dkt. No. 78, which appears to describe some of the facts of this case.

The Court will not grant the motion for reconsideration at this time because Morehead’s affidavit is insufficient. Indeed, the Seventh Circuit recently noted that district courts have discretion “to apply its local rules ‘strictly.’” *Phoneprasith v. Greff*, No. 21-3069, 2022 WL 1819043, at *2 (7th Cir. June 3, 2022) (quoting *McCurry v. Kenco Logistics Servs., LLC*, 942 F.3d 783, 787 n.2 (7th Cir. 2019)). In this district, to properly respond to summary judgment, Morehead must respond to each of the proposed findings of fact, *see* Dkt. Nos. 50 & 54, by either agreeing with the proposed fact or disagreeing with the proposed fact, and support every disagreement of fact by citing to evidence. *See* Dkt. No. 61; *see also* Civ. L. R. 56(b)(2). Morehead must also file a response brief. *Id.* Morehead’s affidavit fails to satisfy these requirements—it does not respond to each of Defendants’ proposed findings of fact by either agreeing with the fact or disagreeing with the fact with citations to evidence, and does it respond to the arguments in Defendants’ briefs.

Given the difficulties Morehead claims to have experienced, the Court will, however, give him an additional 30 days to file materials that properly respond to Defendants’ motions for summary judgment. Morehead should make sure that his response materials strictly comply with the local rules. *See* Civ. L. R. 56(b)(2). If he files them by the deadline, the Court will grant the motion for reconsideration and set a deadline for Defendants’ replies. If the Court does not receive

Morehead's response materials by the deadline, the motion for reconsideration will be denied. Morehead is warned that the Court will not provide further extensions of time. Defendants moved for summary judgment in January 2022, *see* Dkt. Nos. 49 & 52, and further delays will not be tolerated. The Court further notes that Morehead could have avoided his latest problems by not waiting so long to begin drafting his response materials.

IT IS THEREFORE ORDERED that Morehead may file his materials in response to the defendants' motions for summary judgment **within 30 days of this order**. The response materials must strictly comply with the local rules. *See* Civ. L. R. 56(b)(2). If the Court receives his response materials by the deadline, it will grant the motion for reconsideration and will set a deadline for Defendants to file their replies. If the Court does not receive his response materials by the deadline, it will deny the motion for reconsideration.

Dated at Milwaukee, Wisconsin on June 21, 2022.

s/ Brett H. Ludwig

BRETT H. LUDWIG

United States District Judge